



## COLORADO

Department of Public  
Health & Environment

Dedicated to protecting and improving the health and environment of the people of Colorado

October 12, 2016

Board of Directors  
Cheyenne Wells Sanitation District No.1  
P.O. Box 262  
Cheyenne Wells, CO 80810

Certified Mail Number: 7014 2870 0000 7699 6723

**RE: Compliance Order on Consent, Number: MC-161012-1**

Dear Sir or Madam:

Enclosed for Cheyenne Wells Sanitation District No.1's records, you will find Cheyenne Wells Sanitation District No.1's copy, with original signatures, of the recently executed Compliance Order on Consent. Please remember that this agreement is subject to a thirty-day public comment period (paragraph 41). Following initiation, if the Division receives any comments during this period we will contact your office to discuss. Also, please be advised that the first page of the Compliance Order on Consent was changed to place the assigned Order Number on the final document.

If you have any questions, please don't hesitate to contact me at (303) 692-6498 or by electronic mail at [andrea.beebout@state.co.us](mailto:andrea.beebout@state.co.us).

Sincerely,

Andrea Beebout, Enforcement Specialist  
Clean Water Enforcement Unit  
WATER QUALITY CONTROL DIVISION

*Enclosure(s): Compliance Order on Consent MC-161012-1*

cc: Enforcement File

ec: Michael Boeglin, EPA Region VIII  
Linda Roth, Cheyenne County Public Health Agency  
Aimee Konowal, Watershed Section, CDPHE  
Corrina Quintana, Grants and Loans Unit, CDPHE  
Amy Zimmerman, Engineering Section, CDPHE  
Heather Drissel, Field Services Section, CDPHE  
Michelle DeLaria, Permits Section, CDPHE  
Tania Watson, Data Management, CDPHE  
Barry Cress, DOLA





# COLORADO

## Department of Public Health & Environment

### WATER QUALITY CONTROL DIVISION

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COMPLIANCE ORDER ON CONSENT

NUMBER: MC-161012-1

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IN THE MATTER OF:      CHEYENNE WELLS SANITATION DISTRICT NO.1  
CDPS PERMIT NO. COG589000  
CERTIFICATION NO. COG589039  
CHEYENNE COUNTY, COLORADO

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The Colorado Department of Public Health and Environment ("Department"), through the Water Quality Control Division ("Division"), issues this Compliance Order on Consent ("Consent Order"), pursuant to the Division's authority under §§25-8-602 and 605, C.R.S. of the Colorado Water Quality Control Act ("the Act") §§25-8-101 to 803, C.R.S., and its implementing regulations, with the express consent of Cheyenne Wells Sanitation District No.1 ("Cheyenne Wells"). The Division and Cheyenne Wells may be referred to collectively as "the Parties."

#### STATEMENT OF PURPOSE

1. The mutual objectives of the Parties in entering into this Consent Order are to resolve, without litigation, the civil penalties associated with the alleged violations cited herein and in the Notice of Violation / Cease and Desist Order, Number MO-150421-1 (NOV/CDO), that the Division issued to Cheyenne Wells on April 21, 2015.

#### DIVISION'S FINDINGS OF FACT AND DETERMINATION OF VIOLATIONS

2. Based upon the Division's investigation into and review of the compliance issues identified herein, and in accordance with §§25-8-602 and 605, C.R.S., the Division has made the following determinations regarding Cheyenne Wells and Cheyenne Wells' compliance with the Act and a permit issued pursuant to the Act.
3. At all times relevant to the violations cited herein, Cheyenne Wells was a "Special District" formed in Cheyenne County, Colorado pursuant to the Special District Act, §§32-1-101 *et seq* and 32-4-501 *et seq*, C.R.S.
4. Cheyenne Wells is a "person" as defined under the Water Quality Control Act, §25-8-103(13), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2(73).
5. Cheyenne Wells owns and/or operates the Cheyenne Wells Sanitation District wastewater treatment facility located at or near geographic coordinates 38.828, -102.343, in or near the Town of Cheyenne Wells, Cheyenne County, Colorado (the "Facility").



6. The Facility consists of a 3" Parshall Flume influent flow measuring device, a primary aeration lagoon, a secondary aeration lagoon, a polishing pond, a chlorination system and a 3" Parshall flume effluent flow measuring device. The Facility is designed with the capacity to accept and treat an average hydraulic loading of 0.14 million gallons per day and an average organic loading of 312 pounds biochemical oxygen demand ("BOD<sub>5</sub>") per day.
7. The Facility is subject to the Colorado Discharge Permit System General Permit, Number COG589000 (the "Permit"). During the times relevant to the alleged violations identified herein, two versions of the Permit were in effect: 1) the version that became effective November 1, 2006, was amended effective October 1, 2008, and was set to expire October 31, 2010 but was administratively continued until Permit reissuance (the "2008 Permit"); and 2) the current (reissued) version of the Permit that became effective October 1, 2013 and is set to expire September 30, 2018 (the "2013 Permit"). Cheyenne Wells obtained authorization to discharge under the 2008 Permit and the 2013 Permit via Certification Number COG589039 (the "Certification"). The Certification was reissued under the 2013 Permit, effective October 1, 2013, and will remain in effect until September 30, 2018.
8. The 2008 Permit, the 2013 Permit, and the Certification authorize Cheyenne Wells to discharge treated wastewater from the Facility through Outfall 001A into Willow Creek. Outfall 001A is at a point following chlorination and prior to entering Willow Creek and is physically located near geographic coordinates 38.828, -102.343. Outfall 001A is the only outfall permitted to the Facility. The 2008 Permit, the 2013 Permit and the Certification also include requirements to monitor influent loading to the Facility at a representative point prior to any biological treatment, when is designated in the Permit as 300I.
9. Pursuant to 5 CCR 1002-61, §61.8, Cheyenne Wells must comply with all terms and conditions of the Permit, and violations of such terms and conditions as specified in the Permit may be subject to civil and criminal liability pursuant to §§25-8-601 through 25-8-612, C.R.S.

#### **Failure to Comply with Permit Effluent Limitations**

10. Pursuant to Parts I.B.7.b. and I.C.2.b. of the 2008 Permit and the Certification, Cheyenne Well's permitted discharge at Outfall 001A shall not exceed, among others not subject of this action, the effluent limitations specified below:

<b>Cheyenne Wells DISCHARGE LIMITATIONS</b>					
<b>Parameter</b>	<b>Limitation</b>			<b>Sampling</b>	
	<b>30-day Avg.</b>	<b>7-day Avg.</b>	<b>Daily Max</b>	<b>Frequency</b>	<b>Type</b>
Flow, MGD	0.14		Report	3x/week	Instantaneously
BOD <sub>5</sub> , mg/l	30	45		Monthly	Grab
BOD, 5-day, percent removal, %	85(min)			Monthly	Calculated
<i>E. coli</i> , #/ 100ml (10/1/2010-9/30/2012)*	630	1260		Monthly	Grab

\*Amendment 1 to the 2008 Permit replaced the monitoring requirements for fecal coliform with monitoring requirements for *E. coli*

11. Pursuant to Part I.B.3. of the 2013 Permit and the Certification, Cheyenne Wells' permitted discharge at Outfall 001A shall not exceed, among others not subject of this action, the effluent limitations specified below:

Cheyenne Wells DISCHARGE LIMITATIONS					
Parameter	Limitation			Sampling	
	30-day Avg.	7-day Avg.	Daily Max	Frequency	Type
Flow, MGD	0.14		Report	Continuous	Recorder
BOD <sub>5</sub> , mg/l <sup>2</sup>	30	45		Monthly	Grab
BOD <sub>5</sub> , percent removal	85% (min)			Monthly	Calculated
<i>E. coli</i> , #/100ml	630	1260		Monthly	Grab

12. Pursuant to Part I.C.2. of the 2008 Permit, Part I.B.1. of the 2013 Permit and the Certification, Cheyenne Wells is required to monitor defined effluent parameters at specified frequencies in order to provide an indication of compliance or non-compliance with the effluent limitations of the Permit.
13. Pursuant to Part I.E.1. of the 2008 Permit and Part I.D.1. of the 2013 Permit, Cheyenne Wells is required to summarize and report the analytical results of its effluent monitoring to the Division via monthly Discharge Monitoring Report forms (DMRs). Each DMR is to include a certification by Cheyenne Wells that the information provided therein is true, accurate and complete to the knowledge and belief of Cheyenne Wells.
14. Cheyenne Wells' DMRs submitted for Outfall 001A for the monitoring periods between August 2010 and November 2014 include, among other information and data, the following effluent concentration summary data which exceeded the limitations listed in Part I.B.7.b. of the 2008 Permit, Part I.B.3. of the 2013 Permit and the Certification:

Cheyenne Wells EFFLUENT SELF-MONITORING DATA			
DISCHARGE MONITORING REPORTING PERIOD		SAMPLE MEASUREMENTS FOR OUTFALL 001A	
BOD <sub>5</sub>		30-DAY AVG. LIMIT=30 mg/l	7-DAY AVG. LIMIT=45 mg/l
February 1–February 28, 2011		41	--
May 1–May 31, 2013		34	--
<i>E. coli</i>		30-day AVG. LIMIT=630 (#/100ml)	7-DAY AVG. LIMIT=1260 (#/100ml)
February 1–February 28, 2011		5099	5099
July 1–July 31, 2011		3106	3106
October 1–October 31, 2011		870	--
November 1–November 30, 2011		9330	9330
December 1–December 31, 2011		731	--
February 1–February 28, 2013		2407	2407
March 1–March 31, 2013		1298	1298
May 1–May 31, 2013		2407	2407
August 1–August 31, 2013		1226	--
December 1–December 31, 2013		2599	2599
February 1–February 28, 2014		5730	5730
March 1–March 31, 2014		2880	2880
April 1–April 30, 2014		4838	4838

Cheyenne Wells EFFLUENT SELF-MONITORING DATA		
May 1–May 31, 2014	7590	7590
June 1–June 30, 2014	4838	4838
August 1–August 31, 2014	775	--
October 1–October 31, 2014	1842	1842
November 1–November 30, 2014	1633	1633
<b>FLOW</b>	<b>30-DAY AVG. LIMIT=0.14 MGD</b>	<b>--</b>
August 1–August 31, 2010	0.5	--
April 1–April 30, 2013	56.84	--
May 1–May 31, 2013	56.33	--
July 1–July 31, 2013	60.7	--
August 1–August 31, 2013	59.59	--

15. BOD<sub>5</sub> and *E. coli* are “pollutants”, or indicators thereof, as defined by §25-8-103(15) C.R.S., and its implementing permit regulation 5 CCR 1002-61, §61.2(76).
16. The Permit does not authorize the pollutant levels or flow volumes identified above in paragraph 14. Division records establish that Cheyenne Wells does not have any other permit authorizing such discharge into State Waters.
17. Cheyenne Wells failure to comply with the Permit effluent limitations, as identified above in paragraph 14, constitutes violations of Part I.B.7.b. of the 2008 Permit, Part I.B.3. of the 2013 Permit and the Certification.

#### Failure to Meet Percent Removal Requirements

18. Pursuant to Part I.B.7. of the 2008 Permit, Parts I.B.1. and I.B.3. of the 2013 Permit, and the Certification, the arithmetic mean of the BOD<sub>5</sub> concentration for effluent samples collected during the calendar month shall demonstrate a minimum of 85 percent (85%) removal of BOD<sub>5</sub>. Pursuant to Part I.E.1. of the 2008 Permit and Part I.D.1. of the 2013 Permit, Cheyenne Wells is required to summarize and report the monthly average BOD<sub>5</sub> percent removal to the Division via monthly DMRs. Each DMR is to include a certification by Cheyenne Wells that the information provided therein is true, accurate, and complete to the knowledge of Cheyenne Wells.
19. Cheyenne Wells’ DMRs between the January 2010 and September 2014 monitoring periods included, among other information and data, the following monthly average percent removal summary data, which does not demonstrate a minimum of 85 percent (85%) removal for BOD<sub>5</sub> as required by Part I.B.7. of the 2008 Permit, Parts I.B.1. and I.B.3. of the 2013 Permit, and the Certification:

Cheyenne Wells REPORTED SELF-MONITORING DATA	
DISCHARGE MONITORING REPORTING PERIOD	SAMPLE MEASUREMENT
<b>BOD<sub>5</sub>, % REMOVAL</b>	<b>MONTHLY AVG. MINIMUM REMOVAL REQUIREMENT= 85%</b>
January 1–January 30, 2010	84
June 1–June 30, 2010	77

Cheyenne Wells REPORTED SELF-MONITORING DATA	
DISCHARGE MONITORING REPORTING PERIOD	SAMPLE MEASUREMENT
BOD <sub>5</sub> , % REMOVAL	MONTHLY AVG. MINIMUM REMOVAL REQUIREMENT= 85%
July 1–July 31, 2010	78
August 1–August 30, 2010	64
January 1–January 31, 2011	82
February 1–February 28, 2011	40
June 1–June 30, 2011	82
July 1–July 31, 2011	73
August 1–August 31, 2011	84
February 1–February 28, 2013	84
May 1–May 31, 2013	34
August 1–August 31, 2014	81
September 1–September 30, 2014	84

20. Cheyenne Wells' failure to demonstrate a monthly average minimum of 85 percent (85%) removal of BOD<sub>5</sub>, as identified in above, constitutes violations of Part I.B.7. of the 2008 Permit, Parts I.B.1. and I.B.3. of the 2013 Permit, and the Certification.

#### Failure to Properly Monitor and Report

21. Pursuant to Part I.C.1. of the 2008 Permit and Part I.B.5. of the 2013 Permit, regardless of whether or not an effluent discharge occurs at the Facility, in order to obtain an indication of influent loading as compared to the Facility's design capacity, Cheyenne Wells is required to monitor influent parameters at specified frequencies and report the results of such monitoring to the Division via monthly DMRs.
22. Pursuant to Part I.C.2. of the 2008 Permit and Part I.B.1. of the 2013 Permit, in order to provide an indication of compliance or non-compliance with the effluent limitations of the Permit, Cheyenne Wells is required to monitor defined effluent parameters at specified frequencies and report the results of such monitoring to the Division via monthly DMRs.
23. Pursuant to Part I.E.1. of the 2008 Permit and Part I.D.1. of the 2013 Permit, Cheyenne Wells is required to report all monitoring results using Division approved DMRs. Cheyenne Wells is required to ensure the DMRs are mailed to the Division so that they are received no later than the 28<sup>th</sup> day of the month following the monitoring period (monthly). Additionally, the 2008 Permit and the 2013 Permit specify that the DMR forms shall be filled out accurately and completely in accordance with the requirements of the Permit and the instructions on the forms.
24. Division records establish that Cheyenne Wells failed to submit DMRs to the Division for Outfalls 001A and 300I for the following reporting periods:

Cheyenne Wells DELINQUENT DMRs	
REPORTING PERIOD	OUTFALL/ MONITORING LOCATION NUMBER
April 1–April 30, 2011	001A, 300I
September 1–September 30, 2011	001A, 300I

Cheyenne Wells DELINQUENT DMRs	
REPORTING PERIOD	OUTFALL/ MONITORING LOCATION NUMBER
January 1–January 31, 2012	001A,300I
July 1–July 31, 2012	001A, 300I
August 1–August 31, 2012	001A, 300I
September 1–September 30, 2012	001A, 300I
June 1–June 30, 2013	001A, 300I

25. Division records establish that Cheyenne Wells failed to submit DMRs to the Division by the 28<sup>th</sup> day of the month following the end of the reporting periods identified in the table below:

Cheyenne Wells LATE DMRs			
REPORTING PERIOD	OUTFALL/ MONITORING LOCATION NUMBER	DMR DUE DATE	DMR RECEIPT DATE
April 1–April 30, 2010	001A, 300I	5/28/2010	6/3/2010
June 1–June 30, 2010	001A, 300I	7/28/2010	1/18/2011
October 1–October 31, 2010	001A, 300I	11/28/2010	12/6/2010
November 1–November 30, 2010	001A, 300I	12/28/2010	4/20/2011
December 1–December 31, 2010	001A, 300I	1/28/2011	4/20/2011
January 1–January 31, 2011	001A, 300I	2/28/2011	4/20/2011
February 1–February 28, 2011	001A, 300I	3/28/2011	4/20/2011
April 1–April 30, 2012	001A, 300I	5/28/2012	6/4/2012
October 1–October 31, 2012	001A, 300I	11/28/2012	4/23/2013
November 1–November 30, 2012	001A, 300I	12/28/2012	4/23/2013
December 1–December 31, 2012	001A, 300I	1/28/2013	4/23/2013
January 1–January 31, 2013	001A, 300I	2/28/2013	4/24/2013
February 1–February 28, 2013	001A, 300I	3/28/2013	4/24/2013
April 1–April 30, 2013	001A, 300I	4/28/2013	6/13/2013
July 1–July 31, 2013	001A, 300I	8/28/2013	9/3/2013
October 1–October 31, 2013	001A, 300I	11/28/2013	3/3/2014
November 1–November 30, 2013	001A, 300I	12/28/2013	6/2/2014
April 1–April 30, 2014	001A, 300I	5/28/2014	6/3/2014
July 1–July 31, 2014	001A, 300I	8/28/2014	9/2/2014
October 1–October 31, 2014	001A, 300I	11/28/2014	12/9/2014

26. Division records establish that Cheyenne Wells failed to monitor for *E. coli* at Outfall 001A from October 1, 2010 through December 31, 2010.
27. Cheyenne Wells' failure to submit influent and effluent DMRs to the Division so that they are received by no later than the 28<sup>th</sup> day of the month following the monitoring period, as identified above in paragraphs 24 and 25, constitutes violations of Parts I.C.1., I.C.2. and I.E.1. of the 2008 Permit, and Parts I.B.1., I.B.5. and I.D.1. of the 2013 Permit.
28. Cheyenne Wells' failure to properly monitor defined effluent parameters at specified frequencies, as identified above in paragraph 26 constitutes violations of Part I.C.2. of the 2008 Permit.

### Failure to Adhere to Permit Compliance Schedule

29. Pursuant to Part I.C.6. of the 2013 Permit and the Certification, facilities that utilize lagoon treatment are required to have evidence that the lagoon liner meets the allowable seepage rate of  $1 \times 10^{-6}$  cm/second, and a compliance schedule may be included in the certification to show that a liner is in place and is functioning properly.
30. The Certification issued under the 2013 Permit required Cheyenne Wells to investigate and submit conclusive information on the seepage from the Facility's lagoon system to determine if the allowable seepage rate standard of  $1 \times 10^{-6}$  cm/second is exceeded. The associated Inflow/Infiltration Report was due to the Division by no later than October 1, 2014.
31. Division records establish that Cheyenne Wells submitted a report titled "Compliance Schedule Report 04399 - Inflow/Infiltration Report" documenting the seepage rate from the Facility's lagoon system on January 22, 2015 - one hundred fourteen (114) days after the required due date of the report.
32. Cheyenne Wells' failure to submit the information documenting the seepage rate from the lagoon system by October 1, 2014 constitutes a violation of Part I.C.6. of the 2013 Permit and the terms of the Certification.

### ORDER AND AGREEMENT

33. Based on the foregoing factual and legal determinations, pursuant to its authority under §§25-8-602 and 605, C.R.S., and in satisfaction of the civil penalties associated with the alleged violations cited herein and in the NOV/CDO, the Division orders Cheyenne Wells to comply with all provisions of this Consent Order, including all requirements set forth below.
34. Cheyenne Wells agrees to the terms and conditions of this Consent Order. Cheyenne Wells agrees that this Consent Order constitutes a notice of alleged violation and an order issued pursuant to §§25-8-602 and 605, C.R.S., and is an enforceable requirement of the Act. Cheyenne Wells also agrees not to challenge directly or collaterally, in any judicial or administrative proceeding brought by the Division or by Cheyenne Wells against the Division:
  - a. The issuance of this Consent Order;
  - b. The factual and legal determinations made by the Division herein; and
  - c. The Division's authority to bring, or the court's jurisdiction to hear, any action to enforce the terms of this Consent Order under the Act.
35. Notwithstanding the above, Cheyenne Wells does not admit to any of the factual or legal determinations made by the Division herein, and any action undertaken by Cheyenne Wells pursuant to this Consent Order shall not constitute evidence of fault and liability by Cheyenne Wells with respect to the conditions of the Facility. Cheyenne Wells expressly reserves its rights to deny any of the Division's factual or legal determinations or defend itself in any other third party proceeding relating to the information identified in this Consent Order.



## SUPPLEMENTAL ENVIRONMENTAL PROJECT

36. In addition to all other funds necessary to comply with the requirements of this Consent Order, Cheyenne Wells shall pay Forty-Four Thousand Nine Hundred and Seventy Dollars (\$44,970.00) in the form of an expenditure on a Supplemental Environmental Project ("SEP") in order to achieve settlement of this matter.
37. Cheyenne Wells shall perform the SEP identified below. Cheyenne Wells' total expenditure for the SEP shall be not less than Forty-Four Thousand Nine Hundred and Seventy Dollars (\$44,970.00). Cheyenne Wells shall include the following language in any public statement, oral or written, making reference to the SEP: "This project was undertaken in connection with the settlement of an enforcement action taken by the Colorado Department of Public Health and Environment for violations of the Colorado Water Quality Control Act."
38. Cheyenne Wells shall undertake the following SEP, which the Parties agree is intended to secure significant environmental or public health protection and improvements:
  - a. Cheyenne Wells shall donate Forty-Four Thousand Nine Hundred and Seventy Dollars (\$44,970.00) to the Colorado Energy Office. The funds will be used to implement energy efficiency improvements, identified by a professional energy audit, within Cheyenne County School District Re-5 in Cheyenne County, as further described in Attachment A. Cheyenne Wells shall make the payment of Forty-Four Thousand Nine Hundred and Seventy Dollars (\$44,970.00), and shall include with the donation a cover letter identifying the monies for the above-described project within thirty (30) days of the effective date of this Consent Order, as follows: "Colorado Energy Office," to the attention of Michael Turner, Energy Programs Manager, Colorado Energy Office, 1580 Logan St. Suite 100 Denver, Colorado 80203. Cheyenne Wells shall provide the Division with a copy of the cover letter and check within thirty (30) calendar days of the effective date of this Consent Order.
  - b. Cheyenne Wells shall not deduct the payment of the SEP donation described above for any tax purpose or otherwise obtain any favorable tax treatment of such payment or project.
  - c. Cheyenne Wells hereby certifies that, as of the date of this Consent Order, it is not under any existing legal obligation to perform or develop the SEP. Cheyenne Wells further certifies that it has not received, and will not receive, credit in any other enforcement action for the SEP. In the event that Cheyenne Wells has, or will receive credit under any other legal obligation for the SEP, Cheyenne Wells shall pay Forty-Four Thousand Nine Hundred and Seventy Dollars (\$44,970.00) to the Division as a civil penalty within thirty (30) calendar days of receipt of a demand for payment by the Division. Method of payment shall be by certified or cashier's check drawn to the order of the "Colorado Department of Public Health and Environment," and delivered to:

Andrea Beebout  
Colorado Department of Public Health and Environment  
Water Quality Control Division  
Mail Code: WQCD-CWE-B2  
4300 Cherry Creek Drive South  
Denver, Colorado 80246-1530

- d. Cheyenne Wells shall submit a SEP Completion Report to the Division by January 31, 2018. The SEP Completion Report shall contain the following information:
- i. A detailed description of the SEP as implemented;
  - ii. A description of any operating problems encountered and the solutions thereto;
  - iii. Itemized costs, documented by copies of purchase orders and receipts or canceled checks or other forms of proof of payment;
  - iv. Certification that the SEP has been fully implemented pursuant to the provisions of this Consent Order; and
  - v. A description of the environmental and public health benefits resulting from implementation of the SEP (with quantification of the benefits and pollutant reductions, if feasible).
- e. Failure to submit the SEP Completion Report with the required information, or any periodic report, shall be deemed a violation of this Consent Order.
39. All SEPs must be completed to the satisfaction of the Division no later than December 31, 2017, and must be operated for the useful life of the SEP. In the event that Cheyenne Wells fails to comply with any of the terms or provisions of this Consent Order relating to the performance of the SEP, Cheyenne Wells shall be liable for penalties as follows:
- a. Payment of a penalty in the amount of Forty-Four Thousand Nine Hundred and Seventy Dollars (\$44,970.00). The Division, in its sole discretion, may elect to reduce this penalty for environmental benefits created by the partial performance of the SEP.
  - b. Cheyenne Wells shall pay this penalty within thirty (30) calendar days of receipt of written demand by the Division. Method of payment shall be as specified in paragraph 38c above.

#### **SCOPE AND EFFECT OF CONSENT ORDER**

40. The Parties agree and acknowledge that this Consent Order constitutes a full and final settlement of the civil penalties associated with the violations cited herein and in the NOV/CDO.
41. This Consent Order is subject to the Division's "Public Notification on Administrative Enforcement Actions Policy," which includes a thirty day public comment period. The Division and Cheyenne Wells each reserve the right to withdraw consent to this Consent Order if comments received during the thirty day period result in any proposed modification to the Consent Order.
42. This Consent Order constitutes a final agency order or action upon a determination by the Division following the public comment period. Any violation of the provisions of this Consent Order by Cheyenne Wells, including any false certifications, shall be a violation of a final order or action of the Division for the purpose of §25-8-608, C.R.S., and may result in the assessment of civil penalties of up to ten thousand dollars per day for each day during which such violation occurs.
43. Notwithstanding paragraph 35 above, the violations described in this Consent Order will constitute part of Cheyenne Well's compliance history.
44. Cheyenne Wells shall comply with all applicable Federal, State, and/or local laws in fulfillment of its obligations hereunder and shall obtain all necessary approvals and/or permits to conduct the

activities required by this Consent Order. The Division makes no representation with respect to approvals and/or permits required by Federal, State, or local laws other than those specifically referred to herein.

#### **LIMITATIONS, RELEASES AND RESERVATION OF RIGHTS AND LIABILITY**

45. Upon the effective date of this Consent Order, and during its term, this Consent Order shall stand in lieu of any other enforcement action by the Division with respect to the specific instances of violations cited herein and in the NOV/CDO. The Division reserves the right to bring any action to enforce this Consent Order, including actions for penalties or the collection thereof, and/or injunctive relief.
46. This Consent Order does not grant any release of liability for any violations not specifically cited herein.
47. Cheyenne Wells reserves its rights and defenses regarding the Facility other than proceedings to enforce this Consent Order.
48. Nothing in this Consent Order shall preclude the Division from imposing additional requirements necessary to protect human health or the environment and to effectuate the purposes of the Consent Order. Nor shall anything in this Consent Order preclude the Division from imposing additional requirements in the event that additional information is discovered that indicates such requirements are necessary to protect human health or the environment.
49. Cheyenne Wells releases and covenants not to sue the State of Colorado or its employees, agents or representatives as to all common law or statutory claims or counterclaims or for any injuries or damages to persons or property resulting from acts or omissions of Cheyenne Wells, or those acting for or on behalf of Cheyenne Wells, including its officers, employees, agents, successors, representatives, contractors, consultants or attorneys in carrying out activities pursuant to this Consent Order. Cheyenne Wells shall not hold out the State of Colorado or its employees, agents or representatives as a party to any contract entered into by Cheyenne Wells in carrying out activities pursuant to this Consent Order. Nothing in this Consent Order shall constitute an express or implied waiver of immunity otherwise applicable to the State of Colorado, its employees, agents or representatives.

#### **NOTICES**

50. Unless otherwise specified, any report, notice or other communication required under the Consent Order shall be sent to:

For the Division:

Andrea Beebout  
Colorado Department of Public Health and Environment  
Water Quality Control Division  
Mail Code: WQCD-CWE-B2  
4300 Cherry Creek Drive South  
Denver, Colorado 80246-1530  
Telephone: 303-692-6498  
E-mail: andrea.beebout@state.co.us



For Cheyenne Wells Sanitation District No.1:

Cheyenne Wells Sanitation District No.1  
P.O. Box 262  
Cheyenne Wells, CO 80810

**MODIFICATIONS**

51. This Consent Order may be modified only upon mutual written agreement of the Parties.

**NOTICE OF EFFECTIVE DATE**

52. This Consent Order shall be fully effective, enforceable and constitute a final agency action upon notice from the Division following closure of the public comment period referenced in paragraph 41.

**BINDING EFFECT AND AUTHORIZATION TO SIGN**

53. This Consent Order is binding upon Cheyenne Wells and its elected officials, employees, agents, representatives, successors in interest, and assigns. The undersigned warrant that they are authorized to legally bind their respective principals to this Consent Order. In the event that a party does not sign this Consent Order within thirty (30) calendar days of the other party's signature, this Consent Order becomes null and void. This Consent Order may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same Consent Order.

**FOR CHEYENNE WELLS SANITATION DISTRICT NO.1:**



Ronald R. Smith, Chairman of the Board  
Cheyenne Wells Sanitation District No. 1

Date:

10/04/2016

**FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT:**



Nicole Rowan, P.E.  
Clean Water Program Manager  
WATER QUALITY CONTROL DIVISION

Date:

10/12/16